



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0105 FRL-9944-94-Region 9]

Limited Approval, Limited Disapproval of California 9+Air Plan Revisions, Eastern Kern Air

Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing a limited approval and limited disapproval of revisions to the Eastern Kern Air Pollution Control District (EKAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compounds (VOCs) emitted from motor vehicle and mobile equipment refinishing operations. We are proposing action on a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by **[Insert date 30 days after the date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2016-0105 at <http://www.regulations.gov>, or via email to Steckel.Andrew@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit

electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “**FOR FURTHER INFORMATION CONTACT**” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972-3024, *Lazarus.Arnold@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State's Submittal

- A. *What rule did the State submit?*

Table 1 lists the rule addressed by this proposal with the dates that it was adopted by the

local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1 - SUBMITTED RULE

Local Agency	Rule #	Rule Title	Amended	Submitted
EKAPCD	410.4A	Motor Vehicle and Mobile Equipment Refinishing Operations	03/13/14	07/25/14

On September 11, 2014, the submittal for EKAPCD Rule 410.4A was found to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

We approved an earlier version of Rule 410.4A into the SIP on November 13, 1998 (63 FR 63410). The EKAPCD adopted revisions to the SIP-approved version on March 13, 2014 and CARB submitted them to us on July 25, 2014.

C. What is the purpose of the submitted rule revision?

VOCs help produce ground-level ozone, smog and particulate matter (PM), which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. The purpose of this rule is to limit VOC emissions from coatings and solvents used in production, repair, refinish, or maintenance operations where motor vehicles, mobile equipment, or associated parts and components are coated.

The EPA's technical support document (TSD) has more information about this rule.

II. The EPA's Evaluation and Action

A. *How is the EPA evaluating the rule?*

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as moderate or above (see CAA section 182(b)(2)). The EKAPCD regulates an ozone nonattainment area classified as Marginal Nonattainment for the 8-hour Ozone National Ambient Air Quality Standard (40 CFR 81.305). In addition, EKAPCD is classified as Moderate for the 1997 8-hour ozone NAAQS (40 CFR 81.305). There is no EPA CTG for Motor Vehicle and Mobile Equipment Refinishing Operations and, according to CARB's facility search engine, there are no facilities that emit VOC in the EKAPCD for this category for the most recent database year of 2013. Therefore, Rule 410.4A is not required to implement reasonably available control technology (RACT) pursuant to CAA section 182(b)(2).

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. “State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. “Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,” EPA, May 25, 1988 (the “Bluebook,” revised January 11, 1990).
3. “Guidance Document for Correcting Common VOC & Other Rule Deficiencies,” EPA Region 9, August 21, 2001 (the “Little Bluebook”).
4. Code of Federal Regulations (CFR) Title 40, Subpart B, Table 1, “Volatile Organic Compound Emission Standards for Automobile Refinish Coatings” (40 CFR pt. 59, subpt. B, table 1).

B. Does the rule meet the evaluation criteria?

Rule 410.4A improves the SIP by establishing more stringent emission limits, and by clarifying labeling, test methods and recordkeeping provisions. The rule is largely consistent with CAA requirements and relevant guidance regarding enforceability, stringency and SIP revisions. Rule provisions that do not meet the evaluation criteria are summarized below and discussed further in the TSD.

C. What are the rule deficiencies?

These provisions do not satisfy the requirements of section 110 and part D of title I of the Act and prevent full approval of the SIP revision.

- Paragraph VI(A), “VOC Content Limits,” provides VOC limits for cavity wax, deadener, gasket/gasket sealing material, lubricating wax/compounds and trunk interior coatings. However, in conflict with long-standing guidance on enforceability such as discussed in

the Bluebook, these terms are not defined in the rule.¹

D. EPA recommendations to further improve the rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

E. Proposed action and public comment

As authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is proposing a limited approval of the submitted rule. If finalized, this action would incorporate the submitted rule into the SIP, including those provisions identified as deficient. This approval is limited because EPA is simultaneously proposing a limited disapproval of the rule under section 110(k)(3).

Neither sanctions nor a Federal Implementation Plan (FIP) would be imposed should the EPA finalize this limited disapproval. Sanctions would not be imposed under CAA 179(b) because the submittal of Rule 410.4A is discretionary (i.e., not required to be included in the SIP), and the EPA would not promulgate a FIP in this instance under CAA 110(c)(1) because the disapproval does not reveal a deficiency in the SIP for the area that a FIP must correct. Specifically, there is no EPA CTG for Motor Vehicle and Mobile Equipment Refinishing Operations and, according to CARB's Facility Search Engine, there are no facilities that emit VOC in the EKAPCD for this category for the most recent database year of 2013. Accordingly, the failure of the EKAPCD to adopt revisions to Rule 410.4A would not adversely affect the SIP's compliance with the CAA's requirements, such as the requirements for section 182 ozone RACT, reasonable further progress, and attainment demonstrations.

Note that the submitted rule has been adopted by the EKAPCD, and the EPA's final

¹ See "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," (a.k.a., Bluebook) EPA OAQPS, May 25, 1988. P2-7.

limited disapproval would not prevent the local agency from enforcing it. The limited disapproval also would not prevent any portion of the rule from being incorporated by reference into the federally enforceable SIP.

We will accept comments from the public on the proposed limited approval and limited disapproval for the next 30 days.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference EKAPCD Rule 410.4A as described in Table 1 of this notice. The EPA has made, and will continue to make, these documents available electronically through www.regulations.gov and in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. *Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review*

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. *Paperwork Reduction Act (PRA)*

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by state law.

C. *Regulatory Flexibility Act (RFA)*

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by state law.

D. *Unfunded Mandates Reform Act (UMRA)*

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. *Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. *Executive Order 13175: Coordination with Indian Tribal Governments*

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction, and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply to this action.

G. *Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks*

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that

concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by state law.

H. *Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. *National Technology Transfer and Advancement Act (NTTAA)*

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. *Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Population*

The EPA lacks the discretionary authority to address environmental justice in this rulemaking.

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: April 4, 2016.

Jared Blumenfeld,
Regional Administrator,
Region IX.

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